

HAMILTON COUNTY BOARD OF COMMISSIONERS  
NOVEMBER 30, 2007

The Hamilton County Board of Commissioners met on Friday, November 30, 2007 at the Hamilton County Highway Department, 1700 S. 10<sup>th</sup> Street, Noblesville, Indiana at 7:30 a.m. President Dillinger called the meeting to order and declared a quorum present of Commissioner Christine Altman, Commissioner Steven C. Dillinger, and Commissioner Steven A. Holt.

**Hamilton County Visitors and Convention Bureau Building**

Altman declared her conflict of interest as she represents the Hamilton County Convention and Visitors Bureau (HCCVB). Altman stated regarding the building on 37 E. Main Street, Carmel, Indiana, which is funded by the HCCVB but owned by Hamilton County, the developers have indicated they have cleared the encroachments and want to release the escrow. Altman requested direction from the Board as to who should execute the Sales Disclosure and review documents to get the matter cleared. Holt motioned that we acknowledge Altman's conflict and authorize Altman to sign the Sales Disclosure to allow the transfer to be recorded. Dillinger seconded. Holt and Dillinger approved. Altman abstained. Motion carries.

**Highway Business**

**Riverwalk Project Consultant**

Davis requested selection of a consultant for the Riverwalk Project. The recommended firms are Butler, Fairman, Seufert; Structurepoint; and United Consulting Engineers. Holt motioned to select Butler, Fairman, Seufert. Altman seconded. Motion carried unanimously. This project will let in January or February 2008.

**Engineering Agreements**

Davis stated the highway department will be presenting 12 Engineering Agreements on December 10. These are for projects that we have requested additional funds and the approval will allow encumbering of the funds and will allow the projects to begin at the first of the year.

**146<sup>th</sup> Street Development**

Mr. Dave Lucas stated he was notified November 14, 2007 that there was an agenda item on the Technical Advisory Committee (TAC) for Noblesville concerning an access point at 146<sup>th</sup> Street and Cumberland Road onto 146<sup>th</sup> Street. At that point he had not received plans from the City of Noblesville. He has reviewed the plans and has told TAC that the County will not allow the access onto 146<sup>th</sup> Street. There were questions about the current access, which is an access to a vacant lot; it is not a commercial access at this point. At that time the developer contacted Commissioner Dillinger. Mr. Jim Neal provided background information; when the parcel split from AMLI several years ago (late 2004 or early 2005) discussions were held with Steve Broerman of the County and he had said we would permit an access point at that location. This was before we had final design on the new 146<sup>th</sup> Street. Broerman laid out several conditions including they put in a right turn lane with decel and taper and put in a left turn lane where they re-stripe the existing pavement for a left turn lane on 146<sup>th</sup> Street. The location is at 146<sup>th</sup> Street and Cumberland Road in the southwest corner of the intersection. The entrance is directly across from the surgery center. Since that time the left turn lane on 146<sup>th</sup> Street to go north on Cumberland, previously was 300 feet long is now 400 feet long. The distance left to develop a left turn lane does not meet a typical minimum standard of 100 foot taper and 100 foot lane. The developer is going to discuss the required turn lane length that they need is minimal, based on their calculations they need a 6 foot lane. All they really need is enough room for a couple of cars to stack. The downside is that making it that short there is no room for deceleration, so all of the deceleration has to happen in the thru lane. Their numbers show their exit, operating, in the peak p.m. hour, at a Level F. They will have a que from 146<sup>th</sup> Street back into their facility. They did assume that every vehicle going west on 146<sup>th</sup> Street is coming out that exit. None of those vehicles are using Cumberland Road or going through the adjacent development to get to the other exit on 146<sup>th</sup> Street. They have assumed the worse case scenario. Altman asked if there are cross easements in place with the other developers? Neal stated yes. Dillinger stated the problem he has is the previous commitment we have to them that they based their development on. Altman stated they should have been working with the highway department. Neal stated up until they came in with this plan we had not heard from them since January 2005. Altman asked if they ever filed for a permit? Neal stated no, the comments were in an e-mail sent by Steve Broerman for the entire development site. Lucas stated the original development included a connecting road which is currently through this development, which does not exist on the new plan. The Commissioners reviewed the plans. Lucas stated in his discussion with the City of Noblesville, at the staff level, they are for not allowing the cut on 146<sup>th</sup> Street; this was before TAC. Dillinger stated he has a problem with this if they were relying on our commitment or direction and they took the proper steps and we back out on them. Their attorney has stated the developer will pull out of the project. Discussion of the project was held. Davis stated they have asked them if a right in, right out will serve them. The problem is how do you prevent people from turning left out of there, which is an enforcement issue. Altman stated if we allow the usage what prevents them for using a rent-a-cop from stopping traffic. Lucas clarified that we have already built the curb cut of a 24 feet standard and they want three – 12 foot lanes (36 feet). Dillinger stated the developer was supposed to come in and try to work out an agreement with the highway department, has that been done? Neal stated the only thing we have received is the traffic data from their engineers. Neal stated their engineer did try to get in touch with him and he has spoken with him on the phone but all they have discussed was the traffic counts. Altman asked what is on the preliminary plan? Lucas stated it does not show anything.

Steve Hardin Attorney at Bakers & Daniels representing Jackson Asset Management, stated after meeting last week with Commissioner Dillinger and the highway department, there were concerns with compliance with INDOT standards, which Structurepoint researched and reported their findings back to the highway department. This particular access point had been previously reviewed, approved, designed, and constructed and relied upon by Mr. Whitacre, whom originally submitted the development plan when it was approved and built the first building in a way that was consistent where that cut is. We probably have not laid out the plan or built the first building where it is without relying on the first curb cut for these 15 acres. The Jackson's originally proposed a concept of lower level office buildings and were encouraged by the City of Noblesville to step it up and bring in more of a type of Class A office space building. Structurepoint has reviewed the original road cut approval and its conditions and have agreed to meet the conditions to provide for a left turn lane, provide for accel and decel lanes, which can be a continuous right turn lane along the frontage of this property, and they believe the access currently provided for today will comply with INDOT standards from an engineering standpoint. There were things on the current plan submitted to TAC that did not specify some of the conditions from the original approval, including providing for the accel/decel lane. We know we need to revise that from an engineering standpoint. We don't anticipate resolving all of the engineering issues today. We want to see if we are on the same page, we were all surprised at what we heard at the TAC meeting. Dillinger stated the current curb cut is a 24 foot curb cut, which is two lanes. Altman stated as far as she knows the only communication has been a series of

HAMILTON COUNTY BOARD OF COMMISSIONERS  
NOVEMBER 30, 2007

e-mails that are several years old. Altman asked if a formal curb cut was requested? Mr. Ben Smith stated the curb cut was built by the county as part of 146<sup>th</sup> Street. Altman stated that matches preliminary plans? Smith stated yes. Altman stated it also shows an access road that now a building is sitting on. Smith stated the original PUD master plan carried anticipated development, which has changed. Mr. Whitacre's building goes perpendicular to 146<sup>th</sup> Street as to having the thru road that was in the initial PUD. Altman stated that is what this E-mail is based on. In terms of access you no longer have direct access off of Prairie Lakes? Smith stated they do, just around the building. There will be reliever access through Prairie Lakes as well as Cumberland. Dillinger asked if the building can function with a right in, right out? Mr. Bill Butz stated a building might at some point but at this point that would critically impact the project. Altman stated we are concerned about left turns critically impacting 146<sup>th</sup> Street. Butz stated most people that have looked at this do not have a traffic concern initially. In the future there might be some issue. As far as the county being able to restrict access, they will always have that ability in the future. Altman stated the predictions already show a Level F at 5:00 p.m. at that facility. Smith stated that is forcing every westbound car out with a left turn. We feel that Level Service F just for our private drive is the worst case scenario. Butz stated they did that to demonstrate they had the storage capacity for the cars, not that this is a great way to have the cars come in and out. They did not even use the other two reliever exits. Holt stated whether that is Level of Service F or not it would not impact 146<sup>th</sup> Street, it would impact the development. The real issue is how the left turn impacts thru traffic on 146<sup>th</sup> Street, not the people leaving the project site. When you look at the design of 146<sup>th</sup> Street he does not see how you are going to have people queuing up to make a left turn into the project or cutting across the eastbound traffic to go west. We have a problem on 146<sup>th</sup> Street (west) at Cool Creek Commons, they are putting a rental cop out at peak times and stopping traffic on our thoroughfare to let people in and out, which State statute allows. If you have a Level F the next thing you do is put a rental cop out there so you can get your people in and out, Holt stated he does not want to go there. Hardin stated we can all anticipate there might be a safety or traffic issue in the future and the Jackson's group recognizes the county has the ability to restrict that access in the future if it was deemed warranted. Nobody sees that it is a problem today or the near term. There will be sufficient gaps. Structurepoint engineers have reviewed it and believes it complies with INDOT standards. It is critical from an economic development standpoint. This is a project that is setting the stage to elevate Noblesville a step up from what Noblesville has seen before. This would cripple the project by restricting the access from day one. Holt asked why would you want to cross two lanes of traffic on 146<sup>th</sup> Street if you could use the light at Cumberland? Hardin stated there is plenty of gap, there is not an issue today. The county staff would acknowledge that there is not an issue today. Who knows what the traffic flow will be 5, 10, or 15 years from now. To be able to make this \$20 million investment into this project and try to lease it to bring in high quality jobs with a known restricted access would be extremely difficult. Dillinger stated isn't the argument you are making on Cumberland Road the same argument on 146<sup>th</sup> Street but then you reversed the argument. Hardin stated he thought he heard the commissioners say they could always go out Cumberland and go to the light. Holt stated Hardin said it would be too congested. Hardin stated he was not saying it was too congested to take that route that is one of the reliever ways to come in and out of the site. Dillinger stated Commissioner Holt's question was why is that not ample for your people wanting to go west to go out your east entrance to Cumberland to 146<sup>th</sup> Street at the light. Mr. Carter Jackson stated there is a user for this property that would find that satisfactory, but he is not in the business of providing space to that type of user and he is interested in developing an institutional type suburban Class A office building. He can't put an IBM corporate or institutional type icon in that building if the principal access is off of Cumberland Road. Dillinger asked why would you not be able to do that? Jackson stated with the options they have and their concern about image which is associated with where they locate, this is not an SMC type building. Cumberland Road access is a good access for a flex building, single story office. Altman stated you will have access if we allow a right in, right out off of 146<sup>th</sup> Street. Altman stated she is ready to concede what is sitting there is sitting there and that is what is requested. With a Level Service F, she is concerned about your ability to put a rental cop out there and totally dissipate our traffic. The only way we can control that under current legislation is to say no left turn. People will find their way in and out of this project, especially if it is a medical center that is what is depicted. Jackson stated they put representative names of medical or corporate use for the sake of this rendering. Altman stated she has the same situation at 96<sup>th</sup> and College with all of the Duke Properties. You can not get through there during rush hour because of how it is situated and people trying to get in and out and the rental cops totally mess up traffic. We did not put millions of dollars in 146<sup>th</sup> Street for that purpose. Hardin asked if there is a reason the Commissioners would not allow this project to move forward as it has been proposed, you could always reserve your ability to restrict that access by installing a median sometime in the future. Altman stated she would rather go in understanding what we have or your commitment that there will be money escrowed to put in a median, take out the third lane and to construct a median or some kind of barrier that warrants removal of the left turn. She would rather go into it upfront knowing at some point that would happen if we would allow left in, left out. Howard stated it will have to be a covenant, this is the second or third project with the idea to let us do it today and we can close it later. Is that being honest to the people who see it wide open. Howard stated he is not sure it is an honest solution. Howard stated this argument will not happen from Cumberland east, the access was condemned on all those. Everybody you are competing with to the east will be going to north-south grid roads for access. Mayor Ditslear stated the city is supporting the Jackson's, there is already a road cut there and he was led to believe that the county was not allowing that road cut. Noblesville wants that building. Dillinger asked if the Mayor understands what is there now is not what they are wanting? Ditslear stated he understands, it is up to them that the county would give it to them now and at some future point in time they would pay for it. That is their decision. Dillinger stated it is not that we are not pro-growth or business but if we don't protect the integrity of 146<sup>th</sup> Street nobody will. We have huge amounts of money creating an inner thoroughfare; we don't want it to become a 96<sup>th</sup> Street or Keystone. Altman stated if it were not from this investment this property would not be viable or of interest. Holt stated he thinks it is a mistake to do a covenant; it is a disservice to our successors. We know the projections for population growth on the 146<sup>th</sup> Street corridor. The thoroughfare is probably going to operate on an F Level in the near term. To say we would do a covenant and left turn now, it is not honest. Holt stated he does not think there should be a left turn. Butz stated he thinks Howard was saying if you are going to do that it needs to be a covenant and if you did not do it, there were concerns. Holt stated he does not think we should do it at all. For a future board to call the Jacksons and say we are going to take your left turn out, that would not be a pleasant day for anybody. Hardin stated they have heard the comments and how should they proceed? Dillinger stated they need to work with the highway department, if there is to be any compromise agreement it should come through the highway department to the Commissioners. We will honor the curb cut that is there but not allow left in, left out. Hardin stated Christine made a comment to allow it now if there was some understanding of what would happen and I understand Steve (Holt) has a

HAMILTON COUNTY BOARD OF COMMISSIONERS  
NOVEMBER 30, 2007

different view of that. Is that something worthwhile for us to consider and talk with staff on? Altman stated if that helps she would vote for that, she understands what Steve is saying; she sees it happen all of the time. If it is a covenant and anybody going into that property that it is a possibility, buyers beware. Howard stated another alternative may be to have a date set. Everyone knows whatever traffic is today, it will be worse the year after. If there is middle ground lets set the date of execution. Mr. Jeff Swensen asked if it is a left turn into the site or left turn out of the site? The Commissioners stated both.

**Trails/Paths**

Altman asked Davis to work with Chuck Kiphart with what is programmed on trails and paths. Davis stated they have met with Al Patterson to brainstorm on trails. They put together a map of potential and connectivity. Altman asked Davis to include Chuck Kiphart in these discussions.

**2008 Highway Meeting Dates**

Altman motioned to approve the list of 2008 highway meeting dates. Holt seconded. Motion carried unanimously.

**146<sup>th</sup> Street West Access**

Davis stated they met with United Consultants regarding 146<sup>th</sup> Street west. We have asked them to look at how we can best control access as we go into design. Howard asked to be involved in these discussions.

**Highway Engineering Department E-Mails**

Holt asked if we should handle developers road cut requests differently when responding by E-mail? Howard stated there needs to be a statement discouraging road cuts and we will only honor pre-existing road cuts at the level they were. Howard will work on the statement. Holt stated he is concerned about being painted into a corner by communications going out by the engineering department

**Highway Project Funding Needs**

Davis presented a list of highway projects needing funding. Dillinger stated we need a specific defensible program in priority order that can be proposed to the County Council. Dillinger stated until we come to a program that the commissioners all agree on, that is defensible and prioritized; we are not going to get that. We need to be able to show why it is so important. Dillinger stated he is very comfortable that we could get a substantial bond issue. The Commissioners asked Fred Swift to set up a joint retreat date in January at Osprey Pointe.

**Olio Road Interlocal Agreement**

Howard stated the discussion on the Olio Road Interlocal Agreement needs to include whether the county is going to continue to be a thoroughfare player north of I-69 or whether it would continue to be a city deal. Howard stated he was speaking with Art Levine and he indicated Fishers might want to participate in the bridge. Holt stated the highway staff was going to give the Commissioners their opinions on Olio Road north. Davis stated they have upgraded the classification Primary Arterial noting the importance of the location of the bridge over the interstate it becomes even more important. We know this is a high growth area and in our opinion this continues to be a viable thoroughfare north-south connector for the county from SR 38 south instead of I-69. Neal stated his cost estimate for this project is \$13 million for construction. Ditslear asked if funding was going to be available to extend it north to SR 38? Neal stated at this point he has only come up with an estimate, using cost data from the 146<sup>th</sup> Street project. Altman stated supposedly the focus of the MPO is planning south to catch I-70. Ditslear asked why is I-70 more important than I-69? Altman stated it is to draw traffic off of I-465. Altman stated we want this is the MPO program. Davis stated this would be a good congressional lobbying project for both the county and city. Neal stated going north the connection is Boden Road coming up Middletown Avenue over an extension on Victory Chapel. The next major is Cyntheanne to the east. Altman stated if we stay in the agreement and the city wants to build out Boden Road to the north, what portion would we be interested in protecting that exists now after the bridge? Ditslear stated if you are going to Boden and Cyntheanne then Noblesville will take Olio. Howard asked how are you going to build a five lane for \$13 million? Neal stated for five lane it is about \$5 million a mile plus right of way and engineering. Howard estimated it will be \$20 million total costs. Holt asked if we have a consensus that we would like to do this? Altman and Dillinger stated yes. Altman added to control it as we do the south section. Altman stated paragraph seven needs to come out that implies Noblesville will have jurisdiction north. Holt suggested putting 146<sup>th</sup> Street language in it and express the tentative parties go north to SR 38 and the thoroughfare. Howard stated the county can not use property taxes, they can not use TIF, and he sees this going a lot faster just like 146<sup>th</sup> Street where the county's investment is engineering, design and short term financing and the city is paying \$3.8 million per year. There is a live deal now. Altman stated they want the bridge done and she was concerned about the implications of paragraph seven, if that is struck then we work on the deal to go north. Howard will have the agreement ready for the next meeting.

Dillinger adjourned the public session and called the Executive Session to order. [8:56:26]

HAMILTON COUNTY BOARD OF COMMISSIONERS  
NOVEMBER 30, 2007

**Present**

Christine Altman, Commissioner  
Steven C. Dillinger, Commissioner  
Steven A. Holt, Commissioner  
Robin M. Mills, Auditor  
Michael Howard, Attorney  
Fred Swift, Administrative Assistant to Commissioners  
Kim Rauch, Administrative Assistant to Auditor  
Bradley Davis, Highway Director  
Jim Neal, Highway Engineer  
Dave Lucas, Highway Staff Engineer  
John Ditslear, Mayor of Noblesville  
Kevin Kelly, City of Noblesville  
Jeff Swenson, American Structurepointe  
Ben Smith, American Structurepointe  
Bob Whitacre, Cornerstone Companies, Inc.  
Bill Butz, American Structurepoint  
Courtney Jackson, Jackson Asset Management  
Carter Jackson, Jackson Asset Management  
Steve Hardin, Bakers & Daniels

APPROVED  
HAMILTON COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

ATTEST

\_\_\_\_\_  
Robin M. Mills, Auditor